

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 1:00-cr-59 (DCB) (JMR)

WILLIAM TOLIVER

ORDER

This cause is before the Court on the defendant William Toliver's "Petition to Request Judicial Assistance" (**docket entry 50**), which the Court construes as a motion for clarification of judgment. Having carefully considered the motion and being fully advised in the premises, the Court finds as follows:

On January 22, 2001, the defendant pled guilty to one count of conspiracy to possess with intent to distribute cocaine base, and on May 7, 2001, was sentenced to a term of imprisonment OF 92 months with credit for time served. In his motion, Toliver alleges that he is currently eligible to be placed in programs offered by the Federal Bureau of Prisons, but that he "is facing challenges due to information contained in his Pre-Sentence Investigation Report." The PSI noted that a "stun gun" was recovered from the trunk of the vehicle which Toliver and his co-defendant, Jerry Butler, were using at the time of their arrest. (PSI, ¶ 8). The PSI noted that neither Toliver nor Butler admitted possession, ownership or knowledge of the gun, and that the issue was debatable. (PSI, ¶ 12). The PSI recommended that two points be

added to the base offense level for possession of a dangerous weapon (PSI, ¶ 15), and the defendant challenged the PSI, denying any knowledge of a stun gun. (Addendum to Pre-Sentence Report).

The defendant seeks a clarification that there was no enhancement for possession of a firearm in his sentence. This is correct, as reflected in the Judgment dated May 15, 2001. The PSI recommended a base offense level of 29 including a two point enhancement for possession of a dangerous weapon. The Court did not follow the recommendation as to the enhancement, and found a base offense level of 27. (Judgment - Statement of Reasons for Sentencing). Accordingly,

IT IS HEREBY ORDERED that the defendant William Toliver's "Petition to Request Judicial Assistance" (**docket entry 50**), which the Court construes as a motion for clarification of judgment, is GRANTED, and the Court clarifies that there was no enhancement of the defendant's base offense level for possession of a dangerous weapon;

FURTHER ORDERED that the defendant's requests for a transcript of his sentencing and for in forma pauperis status are moot.

SO ORDERED, this the 21st day of November, 2005.

s/David Bramlette
UNITED STATES DISTRICT JUDGE